

Message Text

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AMCONSUL FRANKFURT

AMCONSUL HAMBURG

AMCONSUL MUNICH

AMCONSUL STUTTGART

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SUBJECT: WALTER SCHEEL AND THE POWERS OF THE FRG
PRESIDENCY

BEGIN SUMMARY: THE CONTROVERSY CONCERNING THE
POWERS OF THE FEDERAL PRESIDENT HAS ONCE AGAIN FLARED
UP IN BONN, HALF-WAY THROUGH THE TERM OF OFFICE OF
PRESENT INCUMBENT WALTER SCHEEL. COMMENTS ON SCHEEL'S
ROLE BY CHIEF PRESIDENTIAL ADVISER PAUL FRANK CARRIED
IN THE NOVEMBER 15 ISSUE OF "DER SPIEGEL" SPARKED THE
LATEST BROUHAHA. RECENT ACTIONS TAKEN BY SCHEEL
HIMSELF: DELAYING APPROVAL OF THE DISMISSAL OF TWO
"BUNDESWEHR" GENERALS AND DECLINING TO APPROVE NEW
LEGISLATION CONCERNING EXEMPTION FROM MILITARY SERVICE
SUGGEST THE FRG PRESIDENT WANTS TO UTILIZE THE POWERS
OF HIS OFFICE TO THEIR FULLEST. EFFORTS BY FRANK AND
SCHEEL TO REASSURE THE CHANCELLERY AND FOREIGN MINISTRY
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THAT THE FEDERAL REPUBLIC'S FOURTH PRESIDENT DID NOT

WANT TO CREATE A CONSTITUTIONAL CRISIS WERE ONLY PARTLY SUCCESSFUL. GOVERNMENT COALITION LEADERS ARE CONCERNED THAT THEY NOW MUST TAKE INTO ACCOUNT THE POSSIBLE REACTION OF THE PRESIDENT ALONG WITH AS WELL .THAT OF THE "BUNDESRAT" AND FEDERAL CONSTITUTIONAL COURT IN ORDER TO CARRY OUT THEIR PROGRAMS IN THE NEXT FOUR YEARS. END SUMMARY.

1. SINCE THE FOUNDING OF THE FEDERAL REPUBLIC THERE HAS NOT BEEN FULL CLARITY ABOUT THE POWER ROLE OF THE WEST GERMAN PRESIDENT. THE EXISTING GUIDELINES ARE OPEN TO INTERPRETATION, SUCH AS ARTICLE 59 OF THE BASIC LAW WHICH STATES: "THE FEDERAL PRESIDENT SHALL REPRESENT THE FEDERATION IN ITS INTERNATIONAL RELATIONS. HE SHALL CONCLUDE TREATIES WITH FOREIGN STATES ON BEHALF OF THE FEDERATION."

2. SCHEEL'S PREDECESSORS THEODOR HEUSS, GUSTAV HEINEMANN AND ESPECIALLY HEINRICH LUEBKE ATTEMPTED ON VARIOUS OCCASIONS TO ACCENTUATE THEIR FOREIGN POLICY ROLE. IN 1959 KONRAD ADENAUER CONSIDERED SERIOUSLY THE IDEA OF BECOMING FEDERAL PRESIDENT AND TURNING THAT OFFICE INTO THE PIVOTAL FOREIGN POLICY MAKING ORGAN OF THE BONN GOVERNMENT, UNTIL HE SAW HE WOULD HAVE PROBLEMS IN REALIZING THIS AIM. IT WAS ADENAUER ALSO WHO ONCE REPORTEDLY STATED THAT THE FEDERAL PRESIDENT HAS POWERS DIRECTLY PROPORTIONAL TO THE "WEAK NERVES" OF THE CHANCELLOR.

3. WHEN WALTHER SCHEEL BECAME THE FOURTH PRESIDENT OF THE FEDERAL REPUBLIC IN MAY 1974, IT WAS NATURAL TO ASSUME THAT AS FORMER FOREIGN MINISTER AND LEADER OF ONE OF THE GOVERNING COALITION PARTIES (THE FDP) HE WOULD CONTINUE THIS TRADITION. HE HIMSELF SPOKE OF DESIRING TO BE A "PRESIDENT IN EUROPE." HOWEVER, FOR THE FIRST PART OF HIS TOUR OF OFFICE HE MAINTAINED A RELATIVELY LOW PROFILE.

4. GRADUALLY, HOWEVER, THIS BEGAN TO CHANGE. HE BEGAN TO TAKE A MORE ACTIVIST ROLE AS PRESIDENT. EARLY LAST LIMITED OFFICIAL USE

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SPRING SCHEEL DROPPED HINTS THAT THE FDP COALITION WITH THE SPD WAS NOT CAST IN CONCRETE AND THAT PERHAPS A SWITCH BY THE FREE DEMOCRATS FROM THE PRESENT COALITION WITH THE SOCIAL DEMOCRATS TO COALITION WITH THE UNION PARTIES MIGHT BE IN ORDER. HE INSISTED STATE SECRETARY HARTKOPF OF THE INTERIOR MINISTRY DROP RESIGNATION PLANS AND REMAIN AT HIS POST, THEREBY PREVENTING AN EARLY RETIREMENT AND CLAIM TO A HIGH PENSION. HE DELIBERATED

VERY CAREFULLY THIS PAST SUMMER OVER TWO "MUST"
PIECES OF SPD/FDP LEGISLATION THAT HAD BEEN PRESENTED TO
HIM (AFTER A BUNDESRAT
VETO) BY THE BUNDESTAG FOR HIS SIGNATURE. HE FINALLY
SIGNED ONE (REFORM OF THE VOCATIONAL TRAINING LAW) AND
SENT BACK THE OTHER BECAUSE HE FELT IT WAS UNCONSTITUT-
IONAL (REFORM OF THE PROCEDURE FOR EXEMPTING CONSCIEN-
TIOUS OBJECTORS FROM MILITARY SERVICE). LAST MONTH HE

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REFUSED TO APPROVE THE FORCED RETIREMENT OF GENERALS
KRUPINSKY AND FRANKE, UNTIL DEFENSE MINISTER LEBER
FURNISHED HIM WITH SUFFICIENT SUPPLEMENTAL EVIDENCE
THAT THE TWO HAD OVERSTEPPED THE BOUNDS OF PROPER
MILITARY BEHAVIOR IN THE RUDEL AFFAIR.

5. SCHEEL STATED OPENLY IN A "BONN GENERAL ANZEIGER" INTERVIEW LAST MAY THAT HE FELT THE FEDERAL PRESIDENCY WAS NATURALLY MORE TIED TO PUBLIC OPINION THAN THE OTHER FRG CONSTITUTIONAL BODIES, AND THAT THE VAGUE JOB DESCRIPTION OF THAT OFFICE NATURALLY LEAVES THE MANNER OF CARRYING OUT THE OFFICE VERY MUCH UP TO THE INDIVIDUAL PERSONALITY OF THE INCUMBENT. ACCORDING TO SCHEEL, THE PRESIDENT THEREBY OFTEN COMES UP AGAINST BUILT-IN RESTRICTIONS TO HIS ACTIVITY. NONETHELESS, HE MAINTAINED: "TO GO UP AGAINST THESE AS CLOSELY AS LIMITED OFFICIAL USE

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POSSIBLE IS TRULY AN ART. I HAVE TRIED THIS APPROACH SEVERAL TIMES DURING THE PAST TWO YEARS IN OFFICE, AND THIS WILL CONTINUE."

6. IT WAS ONLY WITH THE PUBLICATION OF THE NOVEMBER 15 "SPIEGEL" ARTICLE ON THE EFFORT BY THE PRESIDENT TO ENLARGE HIS POWER THAT THE CONTROVERSY CAME TO A HEAD. THE "SPIEGEL" ARTICLE WAS TO A LARGE EXTENT BASED ON A DISCUSSION LAST OCTOBER BETWEEN A "SPIEGEL" JOURNALIST AND PRESIDENTIAL STATE SECRETARY FRANK ON THE SUBJECT OF PRESIDENTIAL POWER. THE ARTICLE ALSO QUOTED FREELY FROM A 15-PAGE STUDY PREPARED LAST YEAR BY PAUL DOERNING OF THE PRESIDENT'S OFFICE. THE DOERNING STUDY PRESENTED A VERY LIBERAL INTERPRETATION OF THE POWERS OF THE FEDERAL PRESIDENT. THROUGHOUT THE "SPIEGEL" PIECE WAS THE MESSAGE THAT THE SCHEEL-SCHMIDT RELATIONSHIP WAS COOLING, AS SCHEEL STRIVES TO MAKE HIS POSITION AS WEST GERMAN PRESIDENT COMPARABLE TO THAT OF GISCARD D'ESTAING'S IN FRANCE.

7. WHEN SCHMIDT READ THE "SPIEGEL" ARTICLE HE REPORTEDLY WAS FURIOUS. SCHEEL'S OFFICE QUICKLY PASSED THE WORD THAT FRANK'S SPECULATIONS ABOUT THE PRESIDENT'S ROLE HAD NOT BEEN CLEARED BY THE PRESIDENT. FRANK CLAIMED HIS REMARKS WERE TAKEN OUT OF CONTEXT. NONETHELESS HE SUBMITTED HIS RESIGNATION, AN OFFER THE PRESIDENT REJECTED. SUBSEQUENTLY BOTH SCHEEL AND FRANK SPOKE WITH THE CHANCELLOR, IN AN EFFORT TO COUNTER SCHMIDT'S DISPLEASURE WITH THE COURSE OF EVENTS. THE GOVERNMENT ISSUED A SPECIAL PRESS RELEASE AIMED AT CLARIFYING THE SITUATION, AND IN A NOVEMBER 17 SPEECH AT KARLSRUHE, SCHEEL INDICATED HE HAD NO INTENTION OF SPARKING A CONSTITUTION CONFLICT BY TESTING THE LIMITS OF PRESIDENTIAL POWERS.

8. IN THIS SPEECH WHICH MARKED THE 25TH ANNIVERSARY OF THE ESTABLISHMENT OF THE FEDERAL CONSTITUTIONAL COURT AT KARLSRUHE AND WHICH CHANCELLOR SCHMIDT AT THE LAST

MINUTE PASSED UP, SCHEEL DEMANDED THAT, WHEN NECESSARY, THE VARIOUS FRG CONSTITUTIONAL ORGANS COMPROMISE WITH ONE ANOTHER. HE URGED THAT NATIONAL POLITICAL LEADERS LIMITED OFFICIAL USE

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FIRST TRY TO WORK OUT DIFFERENCES AMONGST THEMSELVES RATHER THAN ALLOW CONSTITUTIONAL CONFLICTS TO DEVELOP. ABOUT HIS OWN ROLE HE STATED, "I WILL SO CARRY OUT MY DUTY AS FEDERAL PRESIDENT THAT NOT A SINGLE IOTA OF OUR BASIC LAW WILL BE INJURED, AS FAR AS I CAN HELP IT." HE ADDED THAT EVERY CONSTITUTIONAL BODY NONETHELESS HAS THE DUTY FULLY TO UTILIZE ITS AUTHORIZED RESPONSIBILITIES.

9. THE SPD/FDP COALITION HAS ENOUGH PROBLEMS ALREADY WITH AN OPPOSITION-CONTROLLED BUNDESRAT AND A CONSERVATIVE FEDERAL CONSTITUTIONAL COURT. NOW IT CAN ALSO EXPECT WALTER SCHEEL PERIODICALLY TO CREATE PROBLEMS OVER DOMESTIC AND FOREIGN POLICY ISSUES.

10. HALF-WAY THROUGH HIS TERM OF OFFICE, SCHEEL FEELS CONFIDENT IN HIS PRESIDIAL ROLE AND CANNOT BE EXPECTED TO PLAY A RUBBER STAMP ROLE THROUGH 1979, NOTWITHSTANDING WHETHER HE CAN OR WANTS TO SUCCEED HIMSELF AT THAT TIME. WHILE MANY OF HIS FDP COLLEAGUES ARE PLEASED WITH SCHEEL'S EFFORTS TO INCREASE THE ROLE OF THE PRESIDENCY AND THEREBY SERVE AS AN ADDED BRAKE ON THE SPD, YET AT THE SAME TIME THEY WOULD PREFER HE .CONTINUE TO DO THIS BY DEED RATHER THAN CONTROVERSIAL PUBLIC STATEMENTS.
STOESSEL

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